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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,529	11/24/2003	Edward Alan Sierecki	P24418 (SBC File No. LB10)	1987
7055 7590 06/19/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER PASIA, REDENTOR M	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 06/19/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	Application No. 10/718,529	Applicant(s) SIERECKI, EDWARD ALAN	
	Examiner Redentor M. Pasia	Art Unit 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                     |                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                         | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/17/2004</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the line card (as to claim 4), at least additional one additional physical loopback (as to claim 5 and 6), at least one additional line card (as to claim 6 and 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/704,715. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As to claim 1 of the application, claim 1 of the co-pending application shows all of the elements claimed in the application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 8, 12-13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 7-8 of copending Application No. 10/704,715 in view of Branth et al. (US 7,075,928 B1; hereinafter Branth).

As to claim 8 of the application, claim 3 of the co-pending application shows at least one platform including a layer two switching component, a layer three switching component and a physical loopback between the layer two switching component and the layer three switching component; and wherein a failure of the connection, which extends to the platform, is protected by layer two network failure restoration. However, claim 3 of co-pending application does not show a plurality of layer two switches; and at least one connection between one of the layer two switches, which communicates with a customer edge device, and the layer two switching component of the platform

Branth shows a network (Figure 1), comprising: a plurality of layer two switches (Figure 1; ATM switches 24-27); and at least one connection between one of the layer two switches, which communicates with a customer edge device (Figure 1). It would have been obvious to one of ordinary skill in the art to modify the network stated in claim 3 of the co-pending application by having the layer two switches and

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corresponding connections of Branth in order to provide a connection to multiple users and systems.

As to claim 12 of the application, claim 7 (in relation to modified claim 3) of the co-pending application shows that the layer two switching component of the platform comprises an ATM switch.

As to claim 13 of the application, claim 8 (in relation to modified claim 3) of the co-pending application shows that the layer three switching component of the platform comprises an IP router.

This is a provisional obviousness-type double patenting rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng et al (US 6,611,522 B1; hereinafter Zheng) in view of DiMambro et al. (US 2004/0143781 A1; hereinafter DiMambro).

As to claim 1, Zheng shows a multi service platform (figure 1; node 10), comprising: a layer two switching component (figure 13; ATM Lookup 220); a layer three switching component (figure 13; IP Route Lookup 244) and layer two capabilities and layer three capabilities are integrated together (col. 3, lines 25-28). However, Zheng does not show a physical loopback connecting the layer two switching component and the layer three switching component.

DiMambro shows a loopback connected to port 120 of Network Adapter 102 in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 2, modified Zheng shows all of the elements except the physical loopback comprises a fiber jumper cable.

DiMambro shows at Par. 0021, that Port 120 allows the adapter to be couple to a suitable communication link (e.g. fiber) and that the loopback plug maybe connected in

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Port 120 as shown in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 3, modified Zheng shows a line card comprising the layer two switching component and the layer three switching component (Figure 5; Line Card 59).

As to claim 4, modified Zheng shows all of the elements except that both ends of the loopback terminate on the line card.

DiMambro shows both ends of the loopback terminate on the network adapter (figure 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 6, modified Zheng shows at least one additional line card comprising at least one additional layer two switching component and at least one additional layer

three switching component, wherein the at least one additional line card provides redundancy (Figure 4).

As to claim 7, modified Zheng shows all of the elements except that the at least one additional line card comprises at least one additional physical loopback terminating on the at least one additional line card.

DiMambro shows both ends of the loopback terminate on the network adapter (figure 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zheng et al (US 6,611,522 B1; hereinafter Zheng) in view of DiMambro et al. (US 2004/0143781 A1; hereinafter DiMambro) in further view of et al. (US 2007/0031153 A1; hereinafter Aronson).

As to claim 5, modified Zheng, shows other layer 3 switching components in figure 13. However, modified Zheng does not show at least one additional physical

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loopback, wherein redundancy for the layer three functionality is provided on the line card.

Aronson shows at Par. 0074, at least one additional physical loopback, wherein redundancy for the layer three functionality is provided on the line card. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng in view of DiMambro by adding the additional loopback of Aronson, in order to provide redundant connection to ensure proper transmission of data within the network.

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branth et al. (US 7,075,928 B1; hereinafter Branth) in view of Zheng et al (US 6,611,522 B1; hereinafter Zheng) in further view of DiMambro et al. (US 2004/0143781 A1; hereinafter DiMambro).

As to claim 8, Branth shows a network (Figure 1), comprising: a plurality of layer two switches (Figure 1; ATM switches 24-27); wherein a failure of the connection, which extends to the platform, is protected by layer two network failure restoration (col. 5, lines 18-26); at least one connection between one of the layer two switches, which communicates with a customer edge device (Figure 1). However, Branth does not show at least one platform including a layer two switching component, a layer three switching component and a physical loopback between the layer two switching component and the layer three switching component.

Zheng shows at least one platform (Figure 1; node 10) including a layer two switching component (figure 13; ATM Lookup 220); a layer three switching component (figure 13; IP Route Lookup 244). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network of Branth by having the service platform of Zheng and all of its connections in order to provide an integrated system for switching ATM data cells, routing IP data packets and providing ATM and IP QoS features (col. 3, lines 25-28). Zheng does not show a physical loopback between the layer two switching component and the layer three switching component.

DiMambro shows a loopback connected to port 120 of Network Adapter 102 in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 9, modified Branth shows all of the elements except the physical loopback comprises a fiber jumper cable.

DiMambro shows at Par. 0021, that Port 120 allows the adapter to be couple to a suitable communication link (e.g. fiber) and that the loopback plug maybe connected in Port 120 as shown in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the

communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 10, modified Branth shows ATM switches 24-27 (Figure 1).

As to claim 11, modified Branth shows a virtual connection (col. 1, lines 67).

As to claims 12 and 13, modified Branth shows all of the elements except that the layer two switching component of the platform comprises an ATM switch (as to claim 12) and that the layer three switching component of the platform comprises an IP router (as to claim 13).

Zheng shows ATM lookup 220 (as to claim 12) and IP Route Lookup, Forward, Policing 244 (as to claim 13) in Figure 13. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network of Branth by having the service platform of Zheng and all of its connections in order to provide an integrated system for switching ATM data cells, routing IP data packets and providing ATM and IP QoS features (col. 3, lines 25-28).

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. (US 6,909,720 B1; hereinafter Willis) in view of Branth et al. (US 7,075,928 B1; hereinafter Branth) in further view of DiMambro et al. (US 2004/0143781 A1; hereinafter DiMambro)

As to claim 14, Willis shows a method for routing traffic, comprising: routing traffic to a layer two switching component in a platform; routing traffic from the layer two switching component to a layer three switching component in the platform; determining, at the layer three switching component, where to route the traffic; returning the traffic to the layer two switching component; and forwarding the traffic to a destination based upon the determined route (col. 2, lines 15-24; col. 6, lines 12-22, lines 48-57; Figure 4 and 10). However, Willis does not show a customer, a layer two network and a physical loopback.

Branth shows a customer, and a layer two network (Figure 1; PC 12-16, 22; ATM network). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Willis to include an ATM network and a customer/user of Branth in order to provide a connection to multiple users and systems.

DiMambro shows a loopback connected to port 120 of Network Adapter 102 in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the switching platform of Zheng to include the optical loopback of DiMambro in order to provide loopback testing that allows the communication device to block or suspend other communication streams rather than terminating the streams (Par. 0018).

As to claim 15, modified Willis shows all of the elements as to claim 14 including an ATM network (see Branth, Figure 1).

As to claim 16, modified Willis shows which the layer three switching component and the layer two switching component are on a line card (Willis; Figure 10 and Figure 5).

As to claim 17 and 18, modified Wills shows ATM lookup 220 (as to claim 17) and IP Route Lookup, Forward, Policing 244 (as to claim 18) in Willis Figure 13.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lau et al. (US 7,079,485 B1) – see abstract;  
Oono et al. (US 7,058,060 B2) – see abstract;  
Pazy et al. (US 6,614,792 B1) – see abstract;  
Chen et al (US 7,130,276 B2) – see abstract;  
Islam et al. (US 7,209,657 B1) – see abstract.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Redentor M. Pasia whose telephone number is 571-272-9745. The examiner can normally be reached on M-F 7:30am to 5:00pm EST, alternating Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H. To can be reached on (571)272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Redentor Pasia

  
DORIS H. TO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600